

Federal Deposit Insurance Corporation

§ 390.12

depository institution for up to five years.

(2) A civil money penalty not to exceed \$250,000.

(b) *Scope of prohibition orders.* Any senior examiner who is subject to an order issued under paragraph (a)(1) of this section shall be subject to 12 U.S.C. 1818(e)(6) and (7) in the same manner and to the same extent as a person subject to an order issued under 12 U.S.C. 1818(e).

(c) *Procedures.* 12 U.S.C. 1820(k) describes the procedures that are applicable to actions under paragraph (a) of this section and the appropriate Federal banking agency authorized to take the action, which may be an agency other than the FDIC. Where the FDIC is the appropriate Federal banking agency, it will conduct administrative proceedings under subpart C of this part.

(d) *Other penalties.* The penalties under this section are not exclusive. A senior examiner who violates the restriction in § 390.3 may also be subject to other administrative, civil, or criminal remedy or penalty as provided by law.

Subpart B—Removals, Suspensions, and Prohibitions Where a Crime Is Charged or Proven

§ 390.10 Scope.

The rules in this subpart apply to hearings, which are exempt from the adjudicative provisions of the Administrative Procedure Act, afforded to any officer, director, or other person participating in the conduct of the affairs of a State savings association, where such person has been suspended or removed from office or prohibited from further participation in the conduct of the affairs of the State savings association by a Notice or Order served by the Board of Directors upon the grounds set forth in section 8(g) of the Federal Deposit Insurance Act (FDIA), (12 U.S.C. 1818(g)).

§ 390.11 Definitions.

As used in this subpart—

(a) The term *Board of Directors* means the Board of Directors of the FDIC or its designee.

(b) The term *Notice* means a Notice of Suspension or Notice of Prohibition issued by the Board of Directors pursuant to section 8(g) of the FDIA.

(c) The term *Order* means an Order of Removal or Order of Prohibition issued by the Board of Directors pursuant to section 8(g) of the FDIA.

(d) The term *association* means a State savings association within the meaning of section 3(b)(3) of the FDIA, (12 U.S.C. 1813(b)(3)).

(e) The term *subject individual* means a person served with a Notice or Order.

(f) The term *petitioner* means a subject individual who has filed a petition for informal hearing under this part.

§ 390.12 Issuance of Notice or Order.

(a) The Board of Directors may issue and serve a Notice upon an officer, director, or other person participating in the conduct of the affairs of an association, where the individual is charged in any information, indictment, or complaint with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, if the Board of Directors, upon due deliberation, determines that continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association. The Notice shall remain in effect until the information, indictment, or complaint is finally disposed of or until terminated by the Board of Directors.

(b) The Board of Directors may issue and serve an Order upon a subject individual against whom a judgment of conviction, or an agreement to enter a pretrial diversion or other similar program has been rendered, where such judgment is not subject to further appellate review, and the Board of Directors, upon the deliberation, has determined that continued service or participation by the subject individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association.